EXHIBIT NO. 3

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IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF TENNESSEE

WESTERN DIVISION

VISANJI GALA and
JAYA GALA
 	
        Plaintiffs,
 	
v.
 	
TESLA MOTORS TN, INC.,
and TESLA MOTORS, INC.,
 	
        Defendants.
	Civil Action No.: 2:20-cv-02265-SHM-tmp
	
	JURY DEMANDED

DECLARATION OF JACOB GOUGH IN SUPPORT OF THE MOTION OF TESLA MOTORS TN, INC. AND TESLA, INC. TO COMPEL ARBITRATION AND FOR DISMISSAL

DECLARATION OF JACOB GOUGH IN SUPPORT OF THE MOTION OF TESLA MOTORS TN, INC. AND TESLA, INC. TO COMPEL ARBITRATION AND FOR DISMISSAL

EXHIBIT NO. 3

I, Jacob Gough, declare as follows:

1. I am a Software Engineering Manager at Tesla, Inc. ("Tesla"), where I have been employed for approximately 4 years. My job responsibilities include overseeing a team of IT applications engineers and managing digital products used to generate customer contracts and facilitate digital transactions. Except as otherwise noted, I have personal knowledge of the following facts and if called to testify, could and would testify competently thereto.

2. Tesla utilizes a third-party vendor, eOriginal, to generate, manage, and store certain customer documents, including lease agreements between Tesla and its customers.

3. Through the eOriginal platform, Tesla also utilizes SmartSign Web, a digital product designed to interface with and allow customers to electronically review and sign agreements.

4. Using eOriginal's platform, Tesla can access detailed records concerning various customer-facing documents, including customer lease agreements. Tesla relies on eOriginal to maintain true and accurate records pertaining to the customer documents it stores and manages. Tesla relies on these records in the ordinary course of its business.

5. At the time of Plaintiff Visanji Gala's transaction, which was October 2019, Tesla was using the SmartSign Web product to facilitate electronic signature for certain customer documents. In Mr. Gala's case, his lease agreement ("Lease Agreement") was digitally signed using the SmartSign Web interface. From the customer perspective, that process begins when the customer receives an email notifying them that transaction documents are ready to execute, including a link to the eOriginal website where the document is available for signature. The customer then clicks on the link and is directed to the eOriginal website where they must enter their full name and email address, and click a box affirming that they "have reviewed and agree to be bound by the terms of the ESIGN consent for use of electronic documents and signatures." Then the customer can click a green button labeled "Begin." A screenshot reflecting this stage of the process, which I am informed is substantially identical to what Visanji Gala would have seen, is attached as **Exhibit A**.

6. The customer is then directed to a complete copy of their Lease Agreement with

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1   Tesla, providing the customer an opportunity to review the document before electronically signing.

2   Attached as **Exhibit B** is a screenshot reflecting this stage in the process, which I am informed is

3   substantially identical to what Visanji Gala would have seen when accessing his Lease Agreement.

4   7.   In order to electronically sign the Lease Agreement, customers must scroll through

5   the entire agreement, including the Agreement to Arbitrate on page 3, to get to the signature line

6   on the last page. The signature line (labeled "Lessee's signature") is presented as a highlighted

7   box with a note ("Click here"), prompting the customer to click to affix their electronic signature

8   to the document. Attached as **Exhibit C** is a screenshot reflecting this stage in the process, which

9   I am informed is substantially identical to what Visanji Gala would have seen when electronically

10   signing his lease.

11   8.   After clicking the signature box, the eOriginal system displays the electronic

12   signature in machine-generated cursive, and a green button appears at the bottom of the webpage,

13   titled "Apply Signature," as reflected in **Exhibit D.** I am informed that this screenshot is

14   substantially identical to what Visanji Gala would have seen when applying his electronic signature

15   to the Lease Agreement. Once the customer clicks the "Apply Signature" box, they are given an

16   opportunity to download, or have emailed directly to them, an electronically signed copy of the

17   Lease Agreement.

18   9.   eOriginal represents that this signature process is in accordance with the

19   requirements of the Uniform Electronic Transaction Act (UETA) and the Federal Electronic

20   Signatures in Global and National Commerce Act (ESIGN). *See*

21   https://www.eoriginal.com/solutions/eoriginal-smartsign/.

22   10.   Interactions with documents saved on eOriginal's platform are tracked through a

23   digital "audit trail," recording every time a document is viewed, forwarded, downloaded, and

24   signed, among other actions. Attached as **Exhibit E** is a Document Activity History Report

25   ("Report") retrieved from the eOriginal platform. This Report contains the audit trail for the Lease

26   Agreement between Visanji Gala and Tesla Motors TN, Inc.

27   11.   The Report shows that the Lease Agreement was generated by eOriginal when

28   requested by a Tesla employee on October 10, 2019 (i.e., "Created Document"). The Report also

1 shows that Mr. Gala received an email notification from SmartSign that his Lease Agreement was

2 ready to sign, including a link to the Lease Agreement, on or about October 11, 2019. The Report

3 further shows that Visanji Gala accessed the eOriginal platform via the email link on October 11,

4 2019 (i.e., "Authenticated with Email Link"). The Report further documents that Mr. Gala was

5 presented with a copy of the Lease Agreement on October 11, 2019 at 6:17 PM EDT (i.e.,

6 "Presented Review Copy"). The Report also shows that Mr. Gala created a signed version of the

7 Lease Agreement on October 11, 2019 at 6:21 PM EDT (i.e., "Signature Areas Acknowledged"

8 and "Created Signed Version").

9   12.   Attached as **Exhibit F** is a copy of Mr. Gala's Lease Agreement retrieved from

10 Tesla's eOriginal database. The copy of the electronically signed Lease Agreement that is attached

11 to Plaintiffs' Complaint is substantively identical to the Lease Agreement that is stored and

12 maintained by eOriginal.

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14   I declare under penalty of perjury under the laws of the United States of America that this

15 Declaration is true and correct. Executed on this 15th day of May 2020 in Bountiful, Utah.

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17   */s/ Jacob Gough*
                                     Jacob Gough

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